

Mayor Charles Henderson called the meeting to order at 8:32 a.m.

PRESENT: Board Members Mayor Charles Henderson, Kevin Hoover, and Thom Hord; Clerk Treasurer Jeannine Myers; City Attorney Shawna Koons; City Engineer and Director of the Department of Community Development Services Mark Richards.

Mr. Hord moved to accept the minutes of September 10th, 2009 as presented. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

2366 Longleaf Drive, Lot 61, Pines of Greenwood Sec. 2

Paula and Phillip Pryor, Homeowners, appeared regarding the following request. Mr. Pryor stated that he would like to place a 7' by 7' plastic shed on an easement. Mr. Hord confirmed that the shed could be easily moved if necessary. Mr. Hoover confirmed that the Homeowners Association had denied permission for the shed and stated that there would need to be a letter of permission submitted.

1) Request Encroachment of an Easement to Erect a Shed

Mr. Hoover made a motion to consider the request for encroachment due to the denial of the Homeowner's Association. Second by Mr. Hord. City Attorney Shawna Koons clarified that the City does not enforce covenants for Homeowner's Associations. Mrs. Pryor stated that they would not be able to get the letter of approval. City Engineer and Director of the Department of Community Development Services Mark Richards stated that the shed is in a drainage easement which needs to be kept clear to handle the storm water. **Vote: Nays. Motion fails to pass.** Mr. Hord moved to deny the request to place a shed in the easement due to the shed impeding the flow of storm water. Second by Mr. Hoover. **Vote: Ayes. Motion to deny the request for encroachment passes.**

Autozone Site Plan / Wilsonian Square Secondary Plat

Representative Matt Maple, Roger Ward Engineering Inc., appeared regarding the project. Director of Community Development Services and City Engineer Mark Richards reviewed the project and stated that there were a few bonds that were insufficient.

Recommendations by Paul Peoni Engineering Division of the Department of Community Development Services:

- 1) Acknowledge that the private improvement of dirt work and storm sewer has been installed in reasonable compliance with the approved plans for the Autozone site.
- 2) Release performance bond #5017645 from Bond Safeguard Insurance Company in the amount of \$167,457.00 for the installation of the private dirt work and storm sewer at the Autozone site.
- 3) Acknowledge the completion of the erosion control at the Autozone site.
- 4) Accept three (3) year maintenance bond #5032806 from Bond Safeguard Insurance Company in the amount of \$667.00 for the erosion control at the Autozone site.
- 5) Release performance bond #5017646 from Bond Safeguard Insurance Company in the amount of \$3,669.00 for the installation of the erosion control at the Autozone site.
- 6) Accept the sanitary sewer improvements completed at the Autozone site.
- 7) Accept three (3) year maintenance bond #5032807 from Bond Safeguard Insurance Company in the amount of \$2,082.00 for the sanitary sewer improvements at the Autozone site.
- 8) Release performance bond #5017647 from Bond Safeguard Insurance Company in the amount of \$11,450.00 for the installation of the sanitary sewer improvements at the Autozone site.
- 9) Accept the sidewalks along U.S. 31 at the Autozone site.
- 10) Accept three (3) year maintenance bond #5032808 from Bond Safeguard Insurance Company in the amount of \$475.00 for the sidewalks along U.S. 31 at the Autozone site.

- 11) Release performance bond #5017648 from Bond Safeguard Insurance Company in the amount of \$2,614.00 for the installation of the sidewalks along U.S. 31 at the Autozone site.
- 12) Accept the sidewalks along U.S. 31 at the Wilsonian Square Plat site.
- 13) Accept three (3) year maintenance bond #5032805 from Bond Safeguard Insurance Company in the amount of \$343.00 for the sidewalks along U.S. 31 at the Wilsonian Plat site.
- 14) Release performance bond #5017651 from Bond Safeguard Insurance Company in the amount of \$1,888.00 for the installation of the sidewalks along U.S. 31 at the Wilsonian Square Plat site.
- 15) Acknowledge that the private improvement of dirt work and storm sewer has been installed in reasonable compliance with the approved plans for the Wilsonian Square Plat site.
- 16) Release performance bond #5017650 from Bond Safeguard Insurance Company in the amount of \$240,934.00 for the installation of the private dirt work and storm sewer at the Wilsonian Square Plat site.

There has been a final field inspection by Kevin Riddle of the engineering division and all items appear to have been satisfactorily installed. The engineering division has received acceptable mylar as-builts. All inspection and testing fees are in order. The amounts and improvements shown on the three (3) year maintenance bonds are correct however the form of the three (3) year maintenance bonds is not acceptable. At this time the engineering division recommends that the Board make the motions stated above conditioned upon the following items being addressed:

- a) Receipt of revised three (3) year maintenance bonds.
- b) Review and approval of the revised three year maintenance bonds by both the engineering division and law department.

Mr. Hoover moved to acknowledge the private improvements, accept the improvements, accept the maintenance bonds, and release the performance bonds, subject to receipt, review, and approval of the revised three year maintenance bonds by the Engineering Division and the Law Department. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Brookhaven Subdivision, Section Four

Representative Tim Stevens, Mann Properties Inc., appeared regarding the request. Director of Community Development Services and City Engineer Mark Richards reviewed the project.

Recommendations by Paul Peoni Engineering Division of the Department of Community Development Services:

- 1) Accept the sanitary sewer inspection and testing agreement and ratify acceptance of the 50% upfront fee.

The inspection and testing agreement is in order. At this time the engineering division recommends that the Board make the motion stated above.

Mr. Hoover moved to direct staff to prepare the sewer service agreement and authorize the Mayor to sign on the Board's behalf. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Precedent South Business Center Section One, Block 4, Lot 4C, (Mays Chemical)

Representative Fred Leimberger, Precedent Commercial Development LLC, appeared regarding the project.

Recommendations by Paul Peoni Engineering Division of the Department of Community Development Services:

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- 1) Accept performance bond #5035074 from Bond Safeguard Insurance Company in the amount of \$13,500.08 for the installation of the erosion control at the Precedent South Business Center, Section One, Block 4, Lot 4C site (Mays Chemical).
- 2) Accept performance bond #5035075 from Bond Safeguard Insurance Company in the amount of \$6,592.86 for the installation of the street improvements in the public right-of-way at the Precedent South Business Center, Section One, Block 4, Lot 4C site (Mays Chemical).
- 3) Accept performance bond #5035076 from Bond Safeguard Insurance Company in the amount of \$81,800.73 for the installation of the dirt work and storm sewer at the Precedent South Business Center, Section One, Block 4, Lot 4C site (Mays Chemical).
- 4) Accept the general inspection and testing agreement and ratify the acceptance of the 50% upfront fee for the Precedent South Business Center, Section One, Block 4, Lot 4C site (Mays Chemical).

All performance bonds have been reviewed and approved by both the engineering division and law department. The inspection and testing agreement is in order. At this time the engineering division recommends that the Board make the motions stated above.

Mr. Hoover moved to accept the performance bonds and the general inspection and testing agreement, and ratify acceptance of the fee. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

229 North Madison Avenue

Director of Community Development Services and City Engineer Mark Richards stated that the owner would like the fee to be less as the business would only be open during breakfast and lunch.

- 1) Requests Discussion of the Sewer Availability Fee

Mr. Hoover stated that he would like staff to have further discussions with the tenant and come back with more information.

Nuisance Complaints

Tom Merrick, Code Enforcement Officer, stated that the following nuisance complaints were abated:

- 1) The Landings @ Oldefield Commons – Copenhaver
- 2) 517 Pleasant Run Drive – Reed
- 3) 620 West Smith Valley Road – Hillock
- 4) 3021 Stella Drive – Christy Management LLC

Tom Merrick, Code Enforcement Officer, spoke on the following nuisance complaint:

- 1) 436 Yorktown Road - Carr

Mr. Merrick stated that the complaint was for an open garage door, a full mailbox, newspapers and leaves filling the gutters, and trash. Mr. Merrick stated that there is also an undriveable car. Mr. Hoover moved to find that a nuisance does exist at 436 Yorktown Road, and directed the City Attorney to issue an Order of Abatement giving 10 days notice and failing that to authorize the City Attorney to take all steps deemed appropriate to abate the nuisance and charge the cost thereof against the property owners. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Audience

Sanitation Billing Office Manager Arnie Kaptain stated that Ohio Properties Library Park Apartments have requested discontinuation of billing for trash pick up. Alan Kirkendall, Ohio Properties, stated that the reason for the request is because of damage to the ground

around the dumpster and the unsightliness of the area. Mr. Kaptain stated that it may be appropriate to have a discussion with Republic Services about the repair. Mr. Kirkendall stated that he would like to choose his own service and that he would like the area repaired but he doesn't know if they own the street. Mayor Charles Henderson directed Mr. Kaptain to work with Republic Services to determine if they are responsible for the damage and have them repair it. Mayor Charles Henderson also directed the Community Development Services staff to find out who owns the street.

Mr. Kaptain requested to write off four properties with uncollectable trash account balances. Mr. Kaptain stated that these fall under Resolution No. 09-02. Mr. Hoover moved to grant the request. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Mr. Kaptain requested that a policy be set to avoid having to come before the Board for permission to write off sanitation accounts as well. There are a substantial amount of liens being filed and paying for the filings for collection of fees for trash. There will be a need to transfer funds to cover these costs before the end of the year.

Terry Gilbert, stated that the Rock & Roll Car Show would be at the Gathering Place Community Church of Greenwood on Friday October 16th 2009. All the proceeds go to Riley Childrens Hospital. Mr. Gilbert stated that this year there will be a drive in movie and the noise will be somewhat buffered. City Attorney Shawna Koons stated that if the noise should go 30 feet beyond the property then the event will need an exception from the noise regulation ordinance. Mr. Hoover moved to make an exception from the noise regulation ordinance until 10:30 p.m. on October the 16th 2009 for the movie. Second by Mayor Charles Henderson. **Vote: Ayes. Motion carries.**

City Attorney Status of Tasks

City Attorney Shawna Koons confirmed that everyone received the Memorandum of Status of Tasks and asked if there were any questions.

Restrictive Donation Agreement with Bainbridge South Lake, LLC (Republic Development) and City of Greenwood Regarding Improvements to Worthsville Road

As the Board is aware, at the February 19, 2009 meeting, counsel for Republic Development, who is developing Bainbridge at South Lake, requested that its restrictive donation in the amount of \$330,828.84 for costs related to improvement of Worthsville Road be refunded on the basis the City did not abide by the terms and obligations of that Restrictive Donation Agreement; specifically, that the City did not undertake and complete the work by the date specified and that the scope of the road improvements was changed without Republic Development's knowledge or agreement.

The Board refused to refund the donation. On September 14, 2009, City Attorney received an offer of settlement regarding this matter that must be tendered to the Board for consideration and action. A copy of that settlement offer is attached for the Board's review and consideration, as is a copy of the relevant portion of the February 19, 2009 minutes.

As this correspondence pertains to litigation that has been threatened in writing, an executive session may be called to discuss it, although any action must be taken at a public meeting.

If the Board prefers to discuss this in executive session, please advise the City Attorney and Clerk-Treasurer of the date so notice of the meeting may be done in compliance with the Open Door Law.

A formal response to the offer of settlement is required; and although there was a September 28, 2009 deadline for it, the City Attorney advised counsel for Republic Development that the Board was not scheduled to meet again until October 8, so no response was possible until after that date.

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Mr. Hoover stated that he would prefer to discuss the issue at an executive session on October 22nd 2009 at 5:00 p.m.

City Attorney Shawna Koons stated that at the September 10th 2009 meeting the Board authorized her to draw down on a letter of credit performance guarantee for Home Depot because they did not file the mylar as built and inspections were incomplete. The money has been wired and Home Depot's council did not believe that it was an appropriate draw down because they felt they had complied with all of the requirements. Ms. Koons stated that the Board will need to give direction on the request to return some or all of the money or to return a replacement letter of credit. George Abel, Easter & Cavosie Attorneys at Law, stated that he was there only to observe the decision of the Board. Mr. Hord confirmed that the City believes that Home Depot has not complied. Ms. Koons stated that they did not acquire the right of way, they didn't file the plans, and the City was unable to inspect anything. Mr. Hoover moved to return the replacement letter of credit. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Mayor Charles Henderson excused himself from the meeting.

City Engineer

Director of Community Development Services and City Engineer Mark Richards reviewed the following status of tasks memos and recommendations of Paul Peoni Engineering Division of the Department of Community Development Services:

Brookhaven Subdivision Section 4

- 1) Accept the sanitary sewer inspection and testing agreement and ratify acceptance of the 50% upfront fee.

The inspection and testing agreement is in order. At this time the engineering division recommends that the Board make the motion stated above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Kensington Grove Subdivision Section 3

- 1) Release three (3) year maintenance bond #104540993 from St. Paul Fire and Marine Insurance Company in the amount of \$61,006.00 for the sanitary sewer at Kensington Grove Subdivision, Section 3.

In discussions with the Sanitation Superintendent, Keith Meier, all items in the field appear to still be in satisfactory condition. At this time the engineering division, per the direction of the Sanitation Superintendent recommend that the Board make the motion stated above.

Moved by Mr. Hord. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Kensington Grove Subdivision Section 4

- 1) Release three (3) year maintenance bond #104540994 from St. Paul Fire and Marine Insurance Company in the amount of \$27,390.00 for the sanitary sewer at Kensington Grove Subdivision, Section 4.

In discussions with the Sanitation Superintendent, Keith Meier, all items in the field appear to still be in satisfactory condition. At this time the engineering division, per the direction of the Sanitation Superintendent recommend that the Board make the motion stated above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Greenwood Christian Academy, Phase 3

Mr. Frank Williams appeared before the Board at the September 10, 2009 meeting asking to replace a performance "Official Check" with a performance "Letter-of-Credit". The Board approved the replacement "Letter-of-Credit" subject to final review and approval by staff. Since that meeting Mr. Williams has provided an acceptable replacement "Letter-of-Credit".

Since the "Letter-of-Credit" number is now available and to have it placed in the public record, the engineering division is recommending that the Board:

- 1) Accept performance Letter-of-Credit #400130103 from The National Bank of Indianapolis in the amount of \$47,807.87 for the installation of the dirt work, storm sewer and erosion control at the Greenwood Christian Academy, Phase 3 site.
- 2) Release performance Official Check #800239 from The National Bank of Indianapolis in the amount of \$52,588.66 for the installation of the dirt work, storm sewer and erosion control at the Greenwood Christian Academy, Phase 3 site.

The reason for the higher amount on the Official Check is that the Bank had added an additional 10% to the performance guarantee amount. The actual amount required per the approved take-off sheets is the \$47,807.87 as shown for the replacement Letter-of-Credit.

Moved by Mr. Hord. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Gurdwara Temple, Phase 2A

- 1) Accept performance Letter-of-Credit (LOC) #190009005 from Heartland Community Bank in the amount of \$95,142.55 for the installation of the dirt work, storm sewers and erosion control at the Gurdwara Temple, Phase 2A site.
- 2) Accept performance LOC #190009006 from Heartland Community Bank in the amount of \$33,708.95 for the installation of the sanitary sewer at the Gurdwara Temple, Phase 2A site.
- 3) Accept performance LOC #190009007 from Heartland Community Bank in the amount of \$20,761.68 for the installation of the street and sidewalk improvements in the public right-of-way at the Gurdwara Temple, Phase 2A site.

The LOC's have been reviewed and approved by the engineering division and the law department. At this time the engineering division recommends that the Board make the motions stated above.

Moved by Mr. Hoover. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Director of Community Development Services and City Engineer Mark Richards reviewed the following status of tasks:

- 1) **Fry Road Reconstruction Project** – The Project Coordination Contract between the City (LPA) and INDOT must be executed before the project letting can occur. Right-of-way is expected to be secured on or about October 15th, and letting is currently scheduled for January 13th, 2010. INDOT is expected to advertise for proposals from engineering consultants for inspection and testing services within the next week or so. The contract document has been reviewed and approved by the City Attorney.

Mr. Hoover moved to approve the Project Coordination contract between the City of Greenwood and INDOT for reconstruction of Fry Road between Madison Avenue and US 31 subject to final review and approval by the City Attorney. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

- 2) **Johnson County Partnership for Water Quality** – The Municipal Separate Storm Sewer System (MS4) entities in Indiana are required to develop Minimum Control Measures (MCM's) in six (6) different areas. The seven (7) MS4's located within Johnson County have been meeting for some time to collaborate with the Johnson County Soil and Water Conservation District (JCSWCD) and the Solid Waste Management District (JCSWMD) to develop and implement a Public Education and Outreach Program, one of the MCM's mandated in the Indiana Administrative Code. The group has developed a Memorandum of Understanding (MOU) which describes how the MS4's, the JCSWCD, and the JCSWMD will collaborate to achieve the goals of providing Public Education and Outreach as described in 327 IAC 15-13, and the duties and obligations of each party. The MOU is required by the Indiana Department of Environmental Management when two (2) or more MS4 entities collaborate to achieve compliance with an MCM. The JCSWCD and JCSWMD will develop and implement the programs necessary to achieve compliance with the Public Education and Outreach requirement. It should be noted that the MOU does not establish a cost sharing formula. The term of the MOU is one (1) year, and is renewable. The MOU can otherwise be terminated by mutual written agreement of the Parties. The City Attorney has reviewed and approved the language contained in the MOU.

Mr. Hord moved to approve the Memorandum of Understanding between the City of Greenwood, six (6) other Johnson County MS4's, JCSWCD, and JCSWMD, and authorize the Mayor to sign the agreement. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

411 North Graham Road

City Attorney Shawna Koons stated that there was a request from Timothy Turner, 411 North Graham Road, for a single parcel sewer service agreement. Ms. Koons stated that the property is near annexed properties but it is still a part of Johnson County. According to Sanitation Superintendent Keith Meier there are not any issues with capacity or with connecting. Mr. Hoover moved to direct the staff to prepare a single parcel sewer service agreement for 411 North Graham Road with usual terms and conditions, and to authorize the Mayor to sign on the Board's behalf. Second by Mr. Hord. **Vote: Ayes. Motion carries.**

Human Resources

None.

Director of Operations

None.

Clerk Treasurer

Clerk Treasurer Jeannine Myers complimented the work done on Diablo Road.

Clerk Treasurer Jeannine Myers stated that State Board of Accounts is working on the 2008 Audit and they questioned who is responsible for reconciling and making journal entries for Sanitation.

Claims

Mr. Hord asked for an explanation of the Contract Change Order for Cobblestone Sanitary Sewer Lift Station Upgrade Project. Sanitation Superintendent Keith Meier replied that it needed to be looked into because of a few discrepancies. Mr. Hord asked why the change order was submitted after the work had been done. Mr. Meier replied that it is for the as built quantities and the quantities are not known until the end. Mr. Hord stated that there is a 23% increase and it has been discussed that change orders must be presented before the work is done. Mr. Hord stated that he is not comfortable with it

and the change order is dated from back in July. Mr. Meier stated that it has been revised many times since then and still needs revisions. Mr. Meier explained how the quantities change continually during construction due to unforeseen changes. Director of Operations Norm Gabehart stated that this project was unlike most others because of many variables that were uncontrollable such as law suits and relocations. Mr. Hord moved to accept and approve the claims as presented through October 8th, 2009. Second by Mr. Hoover. **Vote: Ayes. Motion carries.**

Pat Sherman, Sherman & Armbruster, asked if the agenda is set for the Executive Session. City Attorney Shawna Koons replied that the agenda will need to be available prior to the meeting, but the notice must state the exception that it is being discussed. Mr. Sherman stated that there are some contractual issues he would prefer to be discussed in an executive session in regards to Sanitation. Mr. Hoover stated that if the City Attorney believes the matter needs to be discussed in an executive session that it be included in the one on October 22nd 2009 at 5:00 p.m.

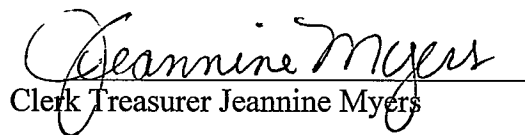
Mayor

None.

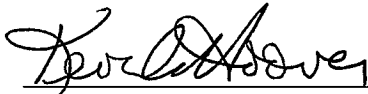
With no further business, the meeting adjourned at 9:55 a.m.



Mayor Charles Henderson



Clerk Treasurer Jeannine Myers



Board Member Kevin Hoover